

REMARKS

Claims 1-24 are pending in this application.

The final Office Action dated January 18, 2005, has been received and carefully reviewed. In that Office Action, it was indicated that claims 1-7 and 15-24 are allowed. Claims 8-14, however, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Agrawal. Reconsideration of this rejection is respectfully requested in view of the above amendment and following remarks.

As an initial matter, it is noted that the Office Action indicates at paragraph 4 that Chen "does not disclose increasing the power by the predetermined amount to the optimal power level." However, at paragraph 6 of the Office Action, it is stated that Chen discloses a step of "determining a power which is higher by the predetermined amount than the transmission power." These statements are inconsistent. However, given the allowance of claims 1-7 and 15-24 it is believed that the statement in paragraph 4 of the Office Action is correct. It is respectfully requested that the examiner provide additional information if the above assumption is incorrect.

By the above amendment, claim 8 has been amended to recite that a step of "determining a power which is higher by the predetermined amount than the transmission power as an optimum transmission power." In view of the statement in paragraph 2 of

the Office Action that the prior art does not teach gradually reducing power by a predetermined amount and when a transmission fails, raising the power level by the predetermined amount, it is believed that claim 8 and its dependent claims 9-14 are now in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited.

Conclusion


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Scott Wakeman (Reg. No. 37,750) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
Charles Gorenstein, #29,271


CG/STW
1247-454P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000